

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

| | | |
|----------------------------------|---|----------------------|
| UNION LEASING, INC., |) | |
| |) | |
| Plaintiff |) | |
| |) | |
| v. |) | Case 3:12-0666 |
| |) | Judge Campbell/Brown |
| |) | Jury Demand |
| ADVANTAGE, INC. d/b/a ACCESS CAR |) | |
| RENTAL; ROBERT MARK MOONEYHAM; |) | |
| and ABC BOWLING GREEN, LLC d/b/a |) | |
| ABC BOWLING GREEN AUTO AUCTION, |) | |
| |) | |
| Defendants |) | |

O R D E R

Presently pending is a motion to deny the relief requested in a letter from Union Leasing to the Magistrate Judge dated November 8, 2013. A copy of this letter is attached to the motion (Docket Entry 106-1). This motion is terminated as **MOOT**. There is no motion by Union Leasing pending before the court. A letter to the court does not constitute a motion. If Union Leasing wishes to file a motion in this matter, it should do so in a straightforward manner. Judge Campbell has stayed proceedings in this matter until December 31, 2013 (Docket Entry 93). If, at the end of the stay, the parties wish to file new motions they should do so once the stay in this matter is lifted. See Docket Entries 90, 91, and 93.

Counsel for Union Leasing is reading too much into the Magistrate Judge's order (Docket Entry 105) following a lengthy telephone conference on October 29, 2013. In the absence of a stay,

any party can issue a subpoena for the deposition of a witness or notice another party. The issue the Magistrate Judge was concerned with was whether the three witnesses in question were willing to testify about the substance of this case. As pointed out by the response of Ms. McConnell (Docket Entry 108), she clearly states she will exercise her right under the Fifth Amendment to any substantive question. At this stage of the proceedings there is simply no reason to waste the time and money of everyone for such a deposition.

At the telephone conference the Magistrate Judge was under the impression that because of certain concessions made by Union Leasing the witnesses were willing to testify as to substantive matters. If they are willing to testify as to substantive matters in this case, the Magistrate Judge would certainly be willing to recommend a lifting of stay to take such testimony. However, it appears that while the witnesses say they will appear in response to a subpoena, there is no indication that they will provide any testimony of substance.

Under these circumstances the Magistrate Judge is unwilling to recommend a change to the current stay, which is effective through December 31, 2013.

It is so **ORDERED**.

/s/ Joe B. Brown
JOE B. BROWN
United States Magistrate Judge